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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,522	02/22/2002	Arnold J. Kelly	CHARGED 3.0-015	9960

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EXAMINER

BUI, THACH H

ART UNIT PAPER NUMBER

3752

DATE MAILED: 03/30/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/081,522

Applicant(s)

KELLY, ARNOLD J.

Examiner

Thach H Bui

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 17, 19, 20, 22-25, 28-32, 36 and 38 is/are rejected.
- 7) ☒ Claim(s) 7-16, 18, 21, 26, 27, 33-35, 37 and 39-42 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. The preliminary amendment filed May 14, 2002 has been received and entered.

Information Disclosure Statement

2. Applicant's prior art citation filed April 12, 2002 and June 06, 2003 have been received, considered and placed of record.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 1, "an initial disperser" is not clearly described in the Specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 2-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 is vague and indefinite because there is no clear or proper teachings for "the initial disperser comprises a casing".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6, 17, 19, 20, 22-25, 28-30, 32, 36 and 38, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by DeFreitas et al. (U.S. Patent No. 5,695,328).

DeFreitas et al. teach an apparatus for dispersing droplets of fluent material (70) comprising an electron supply device of which is arranged so as to provide free electrons that impart a net charge on fluent material so that fluent material is dispersed at least partially under the influence of the net charge (col. 5, lines 45-64) (col. 6, lines 17-50). DeFreitas et al. also teach a mean for breaking the stream of the fluent material into discontinuous parts i.e. a disperser and/or surface profiling so that the discontinuous parts are electrically isolated from a source of the fluent material (25, 30) (see Fig. 2). The apparatus includes one or more aerodynamic swirlers (94) that are

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disposed in the air passage; the swirlers use to impart a rotating more turbulent air flow through the orifice, therefore, the swirlers will break the stream of the fluent material into discontinuous parts so that the discontinuous parts are electrically isolated from a source of the fluent material. The disperser includes a casing (24) defining a conduit for carrying the stream of fluent material, and the casing includes an orifice (20a) of which the discontinuous parts of fluent material are produced. The casing has a chamber with an end adjacent the orifice (12) and disposed on the central axis. The casing includes a first cylindrical part (24b) having a first surface and a second cylindrical part (24a) having a second surface; the first cylindrical part is being received in the second cylindrical part so that the first surface and the second surface cooperatively define the conduit (see Fig. 1A and 2). DeFreitas et al. teach an electron supply device (52) aligned with the orifice on a central axis and comprises a cylindrical in shape so as to project fluent material in a stream around the central axis towards the orifice (see Fig. 1A). The first surface comprises the surface profiling (25, 30) for breaking the stream of the fluent material into discontinuous parts. Methods follow by apparatus.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeFreitas et al.

DeFreitas et al. have all the features of the invention but DeFreitas et al. failed to teach the fluent material comprising water. It would have been obvious to one having ordinary skills in the art at the time the invention was made to have water instead of fuel for dispensing.

Allowable Subject Matter

7. Claims 7-16, 18, 21, 26-27, 33-35, 37 and 39-42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thach H Bui whose telephone number is 703-305-0063. The examiner can normally be reached on Monday-Friday, 7:30-4 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 703-308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Thach H. Bui', with a stylized flourish at the end.

Thach H. Bui
Patent Examiner
AU3752